

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

STEVEN RUBENSTEIN
Plaintiff,

v.

THE UNIVERSITY OF
TENNESSEE, *et al.*,

Defendants.

Case No. 1:19-cv-189

Judge Harry S. Mattice, Jr.

REPLY IN SUPPORT OF MOTION TO DISMISS

Defendants American Academy of Actuaries and Steven Salky respectfully request that the Court consider and grant their Motion to Dismiss, Doc. 11. Plaintiff has filed an Opposition to that Motion that fails to respond to the merits of Defendants' arguments for dismissal. Doc. 27.¹ Defendants stand on the arguments presented in their Motion, which is now ripe for the Court's consideration.

Dated: September 23, 2019

Respectfully submitted,

/s/ Ezra B. Marcus

Ezra B. Marcus (admitted *pro hac vice*)

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¹ Plaintiff's Opposition contains several ad hominem attacks against Mr. Salky and against counsel appearing for Defendants in this matter and in Case No. 16-cv-475. *See* Doc. 27 at 7, 8, 14–15, 26–27, 29, 31–32. Defendants respectfully move the Court to strike those portions of Plaintiff's Opposition under Federal Rule of Civil Procedure 12(f). *See, e.g., Collura v. City of Philadelphia*, 590 F. App'x 180, 185 (3d Cir. 2014) (unpublished) (affirming order striking pleading under Rule 12(f) because it was "replete with abusive language and ad hominem attacks"); *Choi v. 8th Bridge Capital, Inc.*, 2018 WL 3469053, at *7 (C.D. Cal. July 16, 2018) (striking "an inappropriate ad hominem attack" from a pleading under Rule 12(f)).

*Counsel for American Academy of Actuaries
and Steven M. Salky*

CERTIFICATE OF SERVICE

I hereby certify that, on September 23, 2019, a copy of the foregoing was filed electronically. Notice of the filing will be sent to parties by operation of the Court's electronic filing system. In addition, I served a true and correct copy of this notice by regular U.S. mail as listed below.

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